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Scope Ruling: Display Easels & Wall Standards

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March 4, 2015

MEMORANDUM TO: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

THROUGH: Melissa G. Skinner *mgsk*
Director, Office III
Antidumping and Countervailing Duty Operations

Erin Begnal
Program Manager, Office III
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FROM: Brendan Quinn
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Antidumping and Countervailing Duty Operations

RE: Antidumping (“AD”) and Countervailing Duty (“CVD”) Orders on
Aluminum Extrusions from the People’s Republic of China
 (“PRC”)

SUBJECT: Final Scope Ruling on Ford Atlantic’s Display Easels and Wall
Standards

SUMMARY

On June 20, 2014, the Department of Commerce (“Department”) received a request for a scope ruling from Ford Atlantic to determine whether certain folding tripod display easels (“easels”) and certain wall standards manufactured in the PRC, which it imports, are outside the scope of the AD and CVD orders on aluminum extrusions from the PRC.¹ On the basis of our analysis of the scope request and comments received, we determine that Ford Atlantic’s easels are excluded from the scope of the *Orders*, whereas the wall standards are covered by the scope of the *Orders*.

¹ See Ford Atlantic’s letter to the Department entitled, “Aluminum Extrusions from the People’s Republic of China: Request for Scope Ruling on Certain Folding Tripod Display Easels and Certain Wall Standards,” dated June 20, 2014 (“Scope Ruling Request”); see also *Aluminum Extrusions from the People’s Republic of China: Antidumping Duty Order*, 76 FR 30650 (May 26, 2011) and *Aluminum Extrusions from the People’s Republic of China: Countervailing Duty Order*, 76 FR 30653 (May 26, 2011) (collectively, the “Orders”).



BACKGROUND

Ford Atlantic filed its Scope Ruling Request on June 20, 2014.² The Department extended the deadline for a final scope ruling four times, most recently on December 9, 2014.³ Petitioner⁴ submitted comments on Ford Atlantic's Scope Ruling Request on December 22, 2014.⁵ Ford Atlantic submitted a rebuttal response to Petitioner's Comments on January 5, 2015.⁶

DESCRIPTION OF MERCHANDISE SUBJECT TO THIS SCOPE REQUEST

Product 1: Ford Atlantic's Folding Tripod Display Easels

- Ford Atlantic requested clarification for two models of easels, which are upright frames for displaying or supporting an item, typically an artist canvas.⁷
- The components of the easel products made from extruded aluminum are the three legs and a single top brace/back plate, each made of 6063-T5 aluminum, and which together serve as the structural frame of the product.⁸
- The components of the easel products not made from extruded aluminum include: six hooks (used to hold the display item in place, which are affixed to the legs and made of stamped series 5052-H32 aluminum), four arm joints (which act together as a collapsible support mechanism used to support the frame structure and allow the product to fold and made of stamped series 5052-H32 aluminum), one connector (used to connect the collapsible support mechanism to one leg of the frame and made of stamped series 5052-H32 aluminum), three bottom caps (affixed to the bottom of each frame leg, made of plastic), and various rivets, spacers, *etc.* (used to affix the aforementioned components to one another and made of stainless steel).⁹
- According to Ford Atlantic, the easels are fully and permanently assembled and completed at the time of entry and there is no further processing, manufacture, or assembly performed in the United States.¹⁰

Product 2: Ford Atlantic' Wall Standards

- According to Ford Atlantic, wall standards are, generally, units attached to a wall to support various shelving and display systems in retail settings.¹¹

² See Scope Ruling Request.

³ See Letter from the Department to All Interested Parties titled "Aluminum Extrusions from the People's Republic of China: Extension of Time for Scope Ruling," dated December 9, 2014.

⁴ Petitioner is the Aluminum Extrusions Fair Trade Committee.

⁵ See Letter from Petitioner entitled, "Aluminum Extrusions from the People's Republic of China: Comments on Ford Atlantic's Scope Exclusion Request," dated December 22, 2014 ("Petitioner's Comments").

⁶ See Letter from Ford Atlantic entitled, "Aluminum Extrusions from the People's Republic of China: Ford Atlantic's Rebuttal To Petitioner's December 22 Comments Regarding Certain Wall Standard Units," dated January 5, 2015 ("Ford Atlantic's Rebuttal").

⁷ See Scope Ruling Request at 2-4.

⁸ *Id.* at 2 and Exhibit 1.

⁹ *Id.*

¹⁰ *Id.* at 3.

¹¹ *Id.*

- Ford Atlantic’s request covers 5 models of wall standard units, all of which are designed to support “fabric boards” in retail settings.
- The wall standard itself is a piece of extruded 6061 series aluminum, and the length, finish, and number of hole punchings for each wall standard varies by model.¹² The wall standard is screwed into the wall.¹³
- Non-extruded aluminum components include the mounts, which are clips of low carbon zinc-plated steel affixed to the wall standards by brass rivets and upon which the fabric boards are mounted.¹⁴ Each model has six, eight, or ten mounts, depending on the size.¹⁵
- Ford Atlantic states that it does not supply fabric boards (or shelves), as these items are procured separately by the customer to fit their own display and storage needs.¹⁶
- According to Ford Atlantic, the wall standards are fully and permanently assembled and completed at the time of entry and there is no further processing, manufacture, or assembly performed in the United States.¹⁷

SCOPE OF THE ORDERS

The merchandise covered by these *Orders* is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 3 contains manganese as the major alloying element, with manganese accounting for not more than 3.0 percent of total materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contains magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1 percent but not more than 2.0 percent of total materials by weight, and silicon accounting for at least 0.1 percent but not more than 3.0 percent of total materials by weight. The subject aluminum extrusions are properly identified by a four-digit alloy series without either a decimal point or leading letter. Illustrative examples from among the approximately 160 registered alloys that may characterize the subject merchandise are as follows: 1350, 3003, and 6060.

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. Aluminum extrusions that are drawn subsequent to extrusion (“drawn aluminum”) are also included in the scope.

¹² *Id.* at 3 and Exhibit 2.

¹³ *Id.* at 3.

¹⁴ *Id.* at 3 and Exhibit 2.

¹⁵ *Id.* at 3-4.

¹⁶ *See* Scope Ruling Request at 3.

¹⁷ *Id.* at 3 and Exhibit 2.

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to subject aluminum extrusions include, but are not limited to, extrusions that are mill finished (*i.e.*, without any coating or further finishing), brushed, buffed, polished, anodized (including bright-dip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, *i.e.*, prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swaged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, *etc.*), fabricated, or any combination thereof.

Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window frames, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. The scope includes the aluminum extrusion components that are attached (*e.g.*, by welding or fasteners) to form subassemblies, *i.e.*, partially assembled merchandise unless imported as part of the finished goods ‘kit’ defined further below. The scope does not include the non-aluminum extrusion components of subassemblies or subject kits.

Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks (that do not meet the finished heat sink exclusionary language below). Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation.

The following aluminum extrusion products are excluded: aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

The scope also excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels. The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a “finished goods kit.” A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled ‘as is’ into a finished product. An imported product will not be considered a ‘finished goods kit’ and therefore excluded from the scope of the investigation merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.

The scope also excludes aluminum alloy sheet or plates produced by other than the extrusion process, such as aluminum products produced by a method of casting. Cast aluminum products

are properly identified by four digits with a decimal point between the third and fourth digit. A letter may also precede the four digits. The following Aluminum Association designations are representative of aluminum alloys for casting: 208.0, 295.0, 308.0, 355.0, C355.0, 356.0, A356.0, A357.0, 360.0, 366.0, 380.0, A380.0, 413.0, 443.0, 514.0, 518.1, and 712.0. The scope also excludes pure, unwrought aluminum in any form.

The scope also excludes collapsible tubular containers composed of metallic elements corresponding to alloy code 1080A as designated by the Aluminum Association where the tubular container (excluding the nozzle) meets each of the following dimensional characteristics: (1) length of 37 mm or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope of this order are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (“HTS”): 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8473.30.20.00, 8473.30.51.00, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8538.10.00.00, 8543.90.88.80, 8708.29.50.60, 8708.80.65.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99 as well as under other HTS chapters. In addition, fin evaporator coils may be classifiable under HTS numbers: 8418.99.8050 and 8418.99.8060. While HTS subheadings are

provided for convenience and customs purposes, the written description of the scope of these *Orders* is dispositive.¹⁸

LEGAL FRAMEWORK

When a request for a scope ruling is filed, the Department examines the scope language of the order at issue and the description of the product contained in the scope ruling request.¹⁹ Pursuant to the Department's regulations, the Department may also examine other information, including the description of the merchandise contained in the petition, the records from the investigations, and prior scope determinations made for the same product.²⁰ If the Department determines that these sources are sufficient to decide the matter, it will issue a final scope ruling as to whether the merchandise is covered by an order.

Conversely, where the descriptions of the merchandise in the sources described in 19 CFR 351.225(k)(1) are not dispositive, the Department will consider the five additional factors set forth at 19 CFR 351.225(k)(2). These factors are: (i) the physical characteristics of the merchandise; (ii) the expectations of the ultimate purchasers; (iii) the ultimate use of the product; (iv) the channels of trade in which the product is sold; and (v) the manner in which the product is advertised and displayed. The determination as to which analytical framework is most appropriate in any given scope proceeding is made on a case-by-case basis after consideration of all evidence before the Department.

RELEVANT SCOPE DETERMINATIONS²¹

A. Geodesic Dome Kits Scope Ruling²²

J.A. Hancock Co., Inc. ("J.A. Hancock"), an importer of geodesic structure kits (a set of aluminum poles and assembly hardware that can be assembled into landscaping structures or climbing structures for children), argued that its kits contained all parts necessary to fully assemble a final geodesic structure. J.A. Hancock further noted that the components in its kits required no further fabrication or additional parts. The Department determined that the geodesic structure kits met the initial requirements for exclusion as a "finished goods kit," as they are a packaged combination of parts containing all necessary components to fully assemble a final

¹⁸ See *Orders*.

¹⁹ See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010); see also 19 CFR 351.225(k)(1).

²⁰ See 19 CFR 351.225(k)(1).

²¹ See the Department's memorandum entitled, "AD/CVD Orders on Aluminum Extrusions from the PRC: Transmittal of Scope Determinations to the File," dated concurrently with this memorandum and placed on the record of this proceeding. This memorandum contains the scope rulings primarily relied upon in the Department's analysis. Other rulings referenced by interested parties, or by the Department in response to arguments made by interested parties, as well as other scope rulings for aluminum extrusions from the PRC, can be found on the Department's website: <http://enforcement.trade.gov/download/prc-ae/scope/prc-ae-scope-index.html>.

²² See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Final Scope Ruling on J.A. Hancock, Inc.'s Geodesic Structures," dated July 17, 2012 ("Geodesic Dome Kits").

finished good.²³ However, the Department noted that the scope of the Orders states that an “imported product will not be considered a ‘finished goods kit’ . . . merely by including fasteners such as screws, bolts, etc. in the packaging with an aluminum extrusions product.”²⁴ As J.A. Hancock’s kits only consist of extruded aluminum poles and fasteners, the Department found that the exception to the “finished goods kit” exclusion applies. Therefore, the Department determined J.A. Hancock’s kits to not be excluded finished goods kits, and hence covered by the scope of the *Orders*.

B. Pool Poles, Skimmers, and Rakes²⁵

The Department found that certain telescopic pool poles, detachable skimmer poles and leaf skimmers and rakes were comprised of both extruded aluminum components and non-extruded aluminum materials (*i.e.*, plastic handles, plastic frames, and nylon netting), that these non-extruded aluminum materials go beyond mere fasteners, and, thus, the products at issue met the initial Geodesic Dome Kits test for determining whether a good constitutes a finished good or finished goods kit.²⁶ Furthermore, because the information on record indicated that the requested products were fully and permanently assembled and completed merchandise at the time of entry, the Department found that certain poles, skimmers, and rakes met the exclusion criteria for finished goods and were, therefore, excluded from the scope of the *Orders*.²⁷

INTERESTED PARTY COMMENTS

Product 1: Ford Atlantic’s Folding Tripod Easels

Ford Atlantic asserts that, as finished products which include integral non-extruded parts which are fully and permanently assembled and completed at the time of entry (*i.e.*, as imported into the United States by Ford Atlantic) and sold in the identical manner as a finished product to the ultimate downstream customer, the easels are excluded from the *Orders* by the plain language of the scope.²⁸

Additionally, Ford Atlantic argues that the easels subject to its request are not merely aluminum extrusions which are identified by their end use but otherwise meet the physical description of the scope definition, because the easels consist not only of aluminum extrusions, but also non-extruded aluminum parts that are integral to the functioning of the finished product as an easel.²⁹ In this manner, Ford Atlantic contends, the easels are distinguished from the products found to

²³ *Id.* at 7.

²⁴ *Id.*

²⁵ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled, “Final Scope Ruling on Pool Poles, Skimmers, and Rakes,” dated November 24, 2014 (“Pool Poles”).

²⁶ *Id.* at 17.

²⁷ *Id.* at 17-19.

²⁸ See Scope Ruling Request at 10.

²⁹ *Id.*, at 10-11.

be covered by the scope in the Cutting and Marking Straight Edges³⁰ ruling (in which the products under consideration were comprised entirely of aluminum extrusions) and, rather, the easels are analogous to the products under consideration in the Ladders and Brackets³¹ determination (in which the Department found certain dock ladders excluded from the scope resulting from the inclusion of non-extruded plastic steps in the finished product).³²

Petitioner did not provide comment on Ford Atlantic's request for scope ruling on certain folding tripod easels.

Product 2: Ford Atlantic's Wall Standard Units

Ford Atlantic's Scope Request

Ford Atlantic states that, because its requested wall standard units contain both extruded aluminum and non-extruded aluminum components which are fully and permanently assembled and completed at the time of entry, the wall standards are excluded by the plain language of the scope of the *Orders*.³³ Ford Atlantic asserts that the wall standard units are not aluminum extrusions identified by their end use (and thus covered by the *Orders*), because of the permanent attachment of non-extruded mounts integral to the operation of the unit by increasing load-bearing capacity.³⁴ Finally, Ford Atlantic contends that, if the Department were to consider the wall standard units a subassembly (*i.e.*, a part of a shelving system), the wall standards should still be excluded from the *Orders*, consistent with SMVC Kits³⁵ and Motor Cases and Housing Stators³⁶ determinations, which found subassemblies not made wholly of extruded aluminum components and which required to further finishing or fabrication to be incorporated 'as is' as a finished product in the larger system, to be excluded from the scope of the *Orders*.³⁷

³⁰ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled, "Final Scope Ruling on Cutting and Marking Straight Edges," dated November 13, 2012 ("Cutting and Marking Straight Edges").

³¹ See the Department's memorandum entitled, "Final Scope Ruling on Asia Sourcing Corporation's Boat and Dock Ladders and Strip Door Mounting Brackets," dated March 20, 2013 ("Ladders and Brackets").

³² See Scope Ruling Request at 11, *citing to* Cutting and Marking Straight Edges and Ladders and Brackets.

³³ *Id.* at 12.

³⁴ *Id.* at 12-13. Ford Atlantic stresses that the incorporation of these non-extruded mounts as a permanent and integral component of the wall standards differentiates this request from the products under consideration in the *Cutting and Marking Straight Edges* ruling.

³⁵ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Initiation and Preliminary Scope Ruling on Side Mount Valve Controls," dated September 24, 2012 ("Preliminary SMVC Kits Ruling"), unchanged in Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Final Scope Ruling on Side Mount Valve Controls," dated October 26, 2012 ("Final SMVC Kits Ruling") (collectively, "*SMVC Kits*").

³⁶ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Final Scope Ruling on Motor Cases, Assembled and Housing Stators," dated November 19, 2012 ("Motor Cases and Housing Stators").

³⁷ *Id.* at 13.

Petitioner's Comments on the Scope Request

Petitioner asserts that the plain meaning of the scope language indicates that Ford Atlantic's walls standards are included within the scope of the *Orders*, and such a determination is supported by various recent scope determinations.³⁸

Petitioner argues that the wall standard units specified in Ford Atlantic's request do not qualify as products that fit the finished goods exclusion contained in the scope language because, contrary to Ford Atlantic's contention, at the time of importation, they do not contain all of the parts necessary to fully assemble a final finished good (*i.e.*, a shelving unit) and, even if the Department were to consider the wall standards without shelving or brackets to be a finished product, the products would still remain subject to the *Orders* because they are comprised of subject aluminum extrusions packaged with mere fasteners.³⁹ Specifically, Petitioner argues the following:

- Ford Atlantic's requested wall standards consist almost exclusively of 6061 aluminum alloy extrusions which are cut-to-length, punched, and (for some models) treated with finish. The language of the scope specifically covers 6-series aluminum alloy extrusions that have been fabricated and have had a finish applied.⁴⁰ The only non-extrusion components are steel mounts (attached to the extrusion with brass rivets), which are used as fasteners and attachment points for the shelves that the wall standard units are designed to support and display.⁴¹
- Ford Atlantic fails to demonstrate that its wall standard units fall within or otherwise satisfy the requirements of the finished goods exception, as the standards are designed as components of wall-mounted shelving and/or display systems (the components of which Ford Atlantic does not supply) and, thus, the wall standard shelving and display units are incomplete upon importation into the United States.⁴² The Department requires that merchandise must be fully and permanently assembled and completed prior to importation to qualify for the narrow exclusion parameters⁴³ and, in turn, rejected exclusion requests where products have been imported without one or more key components (and, thus, ineligible for

³⁸ See Petitioner's Comments at 4.

³⁹ *Id.* at 5.

⁴⁰ *Id.* at 6.

⁴¹ *Id.* at 6-7.

⁴² *Id.* at 6-9. Petitioner also notes, as an aside, that it is unclear from the request precisely what pieces might constitute a complete wall-mounted display and/or shelving unit, since Ford Atlantic's request is vague as to exactly what types of display and shelving products the wall standards support; referring initially to fabric display boards affixed to the mounts, but later referencing fabric shelving. Petitioner speculates that, if the wall standards are intended to support shelving in addition to boards, further components may be needed to comprise a complete wall standard display system (such as brackets), since the mounts do not appear adequate to support shelving. *Id.* at 9-10.

⁴³ *Id.* at 11, *citing to* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled, "Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China – Final Scope Ruling on Klik-Klik Systems Inc.'s ("Click-Click) MagPole," dated November 19, 2014 at 8-9.

consideration as a finished good or finished good kit).⁴⁴ Accordingly, Petitioner requests that the Department dismiss Ford Atlantic’s request that its wall standard units be excluded from coverage under the scope of the *Orders* as finished goods.⁴⁵

- Should the Department determine that the wall standard units may be considered “subassemblies” of a larger system, it should continue to find them included in the scope of the *Orders*, as they are “incomplete” subassemblies (*i.e.*, one sub-component of a wall standard display subassembly), since further brackets and/or shelving support appear to be necessary before the wall standard would be able to support any significant weight.⁴⁶
- Should the Department determine the wall standards in question are finished goods or complete and assembled subassemblies, the products remain subject to the scope of the *Orders* because they are no more than aluminum extrusions “packaged with fasteners and incidental non-extruded components.”⁴⁷
 - Citing Geodesic Dome Kits, Petitioner notes that the Department has identified fasteners such as nuts, bolts, screws, washers, and rivets as being insufficient, on their own, to qualify an otherwise subject extruded aluminum product for exclusion from the scope of the *Orders* as a finished good kit.⁴⁸
 - Whereas the limitation elucidated in the scope language states only that “a product will not be considered a ‘finished goods kit’... merely by including fasteners such as screws, bolts, *etc.* in the packaging with the aluminum extrusion product” (*i.e.*, the reasoning behind the Geodesic Dome Kits ruling), the Department has recently applied this principle to finished goods which are comprised of aluminum extrusions and non-extrusion fasteners, as well. Specifically, in the Cutting and Marking Straight Edges scope ruling, the Department found cutting and marking edges ineligible for the finished goods exclusion because they consisted solely of aluminum

⁴⁴ *Id.* at 9. As an example, Petitioner cites to, *Shower Doors and Enclosures* at 12-13, where the Department determined that shower door kits imported without their glass panes are incomplete and thus ineligible for consideration, as well as the Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled, “Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People’s Republic of China – Final Scope Ruling on Signature Partners Inc.’s Auto Trim Kits,” dated July 16, 2014 at 12 and Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled, “Antidumping (AD) and Countervailing Duty (CVD) Orders on Aluminum Extrusions from the People’s Republic of China (PRC) – Final Scope Ruling on Certain Retractable Awning Mechanisms,” dated October 14, 2011 at 9-10.

⁴⁵ *Id.* at 11.

⁴⁶ *Id.* at 11-12. Petitioner cites to the Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled, “Antidumping (“AD”) and Countervailing Duty (“CVD”) Orders on Aluminum Extrusions from the People’s Republic of China (“PRC”) – Final Scope Ruling on Circle Glass Co.’s Screen and Storm Door Grille and Patio Door Kits,” dated December 15, 2014, as support for the application of the above referenced principle (*i.e.*, that a scope exclusion may be provided to a product that includes both extruded aluminum and non-extruded aluminum components and enters the United States permanently assembled, complete and requiring no further finishing or fabrication) to a subassembly, but only an assembled and complete subassembly.

⁴⁷ *Id.* at 12.

⁴⁸ *Id.* at 12-13. Petitioner also cites to Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled, “Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People’s Republic of China – Final Scope Ruling on Titan’s Scaffolding Planks,” dated July 8, 2014 at 10, footnote 39 as support for finding steel rivets to be fasteners.

- extrusions and in the *Meridian Products*⁴⁹ and Kitchen Handles⁵⁰ scope findings, the Department recognized that “fasteners” are not limited to the aforementioned items and may incorporate items such as plastic end caps which are involved and assist in the attachment of the merchandise under consideration to the larger structure/product to which it is designed to be attached (*i.e.*, a kitchen door handle to a refrigerator door).⁵¹
- Accordingly, the brass rivets and steel mounts attached to Ford Atlantic’s wall standard units are no more than mere fasteners, and, as such, their inclusion in the wall standard units imported by Ford Atlantic is insufficient to qualify them for exclusion from the scope of the *Orders*.⁵²
 - Lastly, as provided in prior scope rulings, the Department should adopt Petitioner’s decision matrix which has been developed for purposes of the aluminum extrusions scope proceedings.⁵³

Ford Atlantic’s Rebuttal to Petitioner’s Comments

Ford Atlantic asserts that Petitioner’s characterization of the zinc plated low carbon steel mount components of the wall standards in question as ‘fasteners’ is immaterial since the scope of the *Orders* specifies only that a ‘finished goods kit’ may not be excluded from the scope merely by the inclusions of fasteners in the packaging of an aluminum extrusion product, since the mounts in question are permanently attached to the wall standard with rivets at the time of importation and, thus, the wall standards are in no way a ‘finished goods kit’.⁵⁴ Rather, the wall standards in question are a finished product (or a finished product subassembly) and, therefore, the analysis of whether a product is covered by the scope cannot be reliant on a framework that explicitly pertains to finished goods kits.⁵⁵

Furthermore, Ford Atlantic argues that - in addition to being immaterial - Petitioner’s claims that the mounts in question are “mere” or “incidental” fasteners is incorrect, considering that: 1) the mounts are made of steel, which is a stronger and more suitable for load retention than aluminum; 2) there are numerous mounts included on each unit (between six and ten depending on the particular model); 3) the mounts are permanently affixed to the standards with rivets prior to importation and not fasteners in a kit that may be affixed by a customer subsequent to purchase; and 4) the mounts must be used to support the fabric boards mounted on them since, without these mounts, the fabric shelves designed to be used with this wall standard unit would not be able to support any significant load.⁵⁶

⁴⁹ See *Meridian Products v. United States*, 971 F. Supp. 2d 1259, 1265 (CIT March 26, 2014) (“*Meridian Products*”).

⁵⁰ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled, “Final Scope Ruling on Kitchen Appliance Door Handles With Plastic End Caps and Kitchen Appliance Door Handles Without Plastic End Caps,” dated August 4, 2014 (“*Kitchen Handles*”).

⁵¹ *Id.* at 13-15.

⁵² *Id.* at 15.

⁵³ *Id.* at Exhibit 2.

⁵⁴ See Ford Atlantic’s Rebuttal at 3.

⁵⁵ *Id.*

⁵⁶ *Id.* at 4.

DEPARTMENT'S POSITION

We examined the description of the products in this scope request, the scope language of the *Orders*, and the Department's prior relevant scope rulings summarized above. Pursuant to 19 CFR 351.225(k)(1), we find that the scope and the Department's prior rulings are dispositive as to whether the products at issue are subject to the *Orders*. Accordingly, for this determination, the Department finds it unnecessary to consider the additional factors specified in 19 CFR 351.225(k)(2).

Product 1: Ford Atlantic's Folding Tripod Easels

The description of the folding tripod easels in question indicates that they are comprised of aluminum extrusions and non-extruded aluminum components (*i.e.*, various non-extruded joints, connectors, and caps) which go beyond mere fasteners.⁵⁷ Therefore, we find that Ford Atlantic's folding tripod easels meet our first test for determining whether a good constitutes a finished good or finished goods kit, as established in the *Geodesic Dome Kits* scope ruling.⁵⁸ Next, the scope of the *Orders* excludes "finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry." The narrative description and photographs included in the Scope Ruling Request demonstrate that the folding tripod easels in question enter as fully-assembled folding tripod easels that are permanently assembled and completed at the time of entry.⁵⁹ Ford Atlantic states that they are ready to be sold to the downstream customer with no further modification subsequent to importation.⁶⁰ As such, Ford Atlantic's easels satisfy the criterion for the finished goods exclusion based on the plain language of the scope (*i.e.*, the scope of the *Orders* excludes "finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry"), as further clarified by the principles enumerated in the *Geodesic Dome Kits* ruling (*i.e.*, the non-extruded materials must be comprised of more than mere fasteners) and consistent with recent rulings wherein the Department applied the aforementioned principles in its analysis of whether merchandise constitutes excluded finished goods under the *Orders*.⁶¹

Product 2: Ford Atlantic's Wall Standard Units

The merchandise covered by the *Orders* is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by the Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents).⁶²

⁵⁷ See Scope Ruling Request at 2 and Exhibit 1.

⁵⁸ See *Geodesic Dome Kits* scope ruling at 7, where the Department found that since the products at issue consisted solely of extruded aluminum and fasteners, the exception to the exclusion provision applied. Accordingly, the Department found that the products at issue did not meet the exclusion criteria for a finished goods kit.

⁵⁹ See Scope Ruling Request at 2-4 and Exhibit 1.

⁶⁰ *Id.* at 3.

⁶¹ See, *e.g.*, Pool Poles scope ruling.

⁶² See, *e.g.*, CVD Order, 76 FR at 30653.

The scope of the *Orders* explicitly excludes “finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels,” and “finished goods kits” which are defined as “a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled ‘as is’ into a finished product.” The scope also provides that “{a}n imported product will not be considered a ‘finished goods kit’ and, therefore, excluded from the scope of the investigation merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.”

Based on the information provided by Ford Atlantic (*e.g.*, narrative statements, photographs, and product specifications), we find that the wall standards at issue are comprised entirely of extruded aluminum and fasteners (*i.e.*, steel mounts and rivets).⁶³ Therefore, we find the wall standards do not meet the Department’s first test for determining whether a good constitutes a finished good or finished goods kit, as established in the Geodesic Dome Kits scope ruling.⁶⁴

Webster’s dictionary defines a fastener as “a restraint that attaches to something or holds something in place.”⁶⁵ The steel mounts in question meet this definition because these mounts/clips act as a restraint upon which a separate fabric board is attached and held in place for display on the wall standard unit. Likewise, the brass rivets affix the mounts to the extruded aluminum wall standard. Indeed, in Ford Atlantic’s Rebuttal, Ford Atlantic stated that “petitioner’s attempt to reduce the importance of the mounts to the wall standard unit by describing the *fasteners* as “mere” and “incidental” is belied by the record.”⁶⁶ Accordingly, even Ford Atlantic recognized in its submission that the steel mounts are fasteners and serve the function of “attaching something or holding something in place.” We understand Ford Atlantic’s argument to be that the mounts have a significant function, but the significance of the ability of it to fasten fabric boards in place does not remove the mount from the definition of a fastener. Therefore, because Ford Atlantic’s wall standards do not contain non-aluminum extruded components beyond fasteners, we find that the products do not meet the finished goods exclusion and thus are covered by the scope of the *Orders*.

We disagree with Ford Atlantic’s contention that the ‘fasteners’ language established in the scope of the *Orders* and applied in Geodesic Dome Kits only applies in the context of an exclusion for finish goods kits packaged with fasteners, and is, thus, not applicable to finished products or finished product subassemblies in the same manner. The difference between “finished goods” and “finished goods kits,” as described in the scope is that the former is

⁶³ See Scope Ruling Request at 3-4 and Exhibit 2.

⁶⁴ See Geodesic Dome Kits at 7, where the Department found that since the products at issue consisted solely of extruded aluminum and fasteners, the exception to the exclusion provision applied. Accordingly, the Department found that the products at issue did not meet the exclusion criteria for a finished goods kit.

⁶⁵ See <http://www.webster-dictionary.org/definition/fastener>. A screenshot of this webpage is provided in the Memorandum at Attachment I. See also the Dictionary.com definition: “any of various devices, as a snap or hook and eye, for holding together two objects or parts sometimes required to be separate...” at <http://dictionary.reference.com/browse/fastener?s=t>, and also included at Attachment I.

⁶⁶ See Ford Atlantic’s Rebuttal at 3 (*emphasis added*).

assembled upon entry while the latter is unassembled upon entry.⁶⁷ We find unconvincing the notion that an unassembled product in kit-form that consists solely of extruded aluminum, save for fasteners, would, per the analysis from the Geodesic Dome Kits ruling, fall within the scope while the identical product, entering the United States as an assembled good, would fall outside the scope of the *Orders*.

Furthermore, the finished good language in the scope of the *Orders* details that excluded finished goods are merchandise “containing aluminum extrusions as parts”, and the inclusion of the “as parts” language indicates that excluded finished goods contemplated are not entirely aluminum extrusions but must necessarily contain both aluminum extrusion and non-aluminum extrusion components to qualify for the finished goods exclusion. The finished goods kit language from the scope of the *Orders* (*i.e.*, explaining that an imported product will not be considered an excluded finished good kit merely by including fasteners such as screws, bolts, *etc.* with an aluminum extrusion product) means that the excluded “finished goods kit” must contain aluminum extrusions plus an additional non-extruded aluminum component, which goes beyond mere fasteners and means that, in order to qualify for the finished goods kit exclusion, a product must contain aluminum extrusions along with some non-extruded aluminum component, beyond mere fasteners. Thus, reading these two concepts consistently leads to an interpretation in which the non-aluminum components of an alleged excluded finished good must be something more than mere fasteners.

Furthermore, we disagree with Ford Atlantic’s arguments that the products in question are analogous to the boat and dock ladders under consideration in the Ladders and Brackets ruling. In that scope ruling, the Department concluded that plastic steps of the boat and dock ladders in question were not fasteners.⁶⁸ Unlike the plastic steps in the Ladders and Brackets ruling, the steel mounts at issue in the instant proceeding are fasteners, and, therefore, Ford Atlantic’s wall standards are not analogous to the boat and dock ladders in the Ladders and Brackets ruling.

Finally, we disagree with Ford Atlantic’s arguments that the Department should conclude that the wall standards in question are finished goods subassemblies, allegedly in accordance with the Department’s analysis in the SMVC Kits and Motor Cases and Housing Stators scope rulings. Before the Department determines that a product is a finished good subassembly, as noted above, it first determines if the product meets the first test, as articulated in Geodesic Dome Kits (*i.e.*, that it contain non-aluminum extrusion components other than fasteners) for determining whether merchandise can satisfy the finished goods or finished goods kit exclusions.⁶⁹ Ford Atlantic’s wall standards do not satisfy this requirement. Thus, the Department does not arrive at an analysis of whether the product at issue is a finished good subassembly. Likewise, Petitioner’s arguments with respect to the finished goods or completed subassembly requirements are therefore also moot, because, as discussed above, we have determined that the merchandise in question is comprised of only extruded aluminum and fasteners.

⁶⁷ The scope language states: “The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a “finished goods kit.” A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good...” See *CVD Order*, 76 FR at 30654, emphasis added.

⁶⁸ See Ladders and Brackets at 8.

⁶⁹ See, *e.g.*, Pool Poles scope ruling.

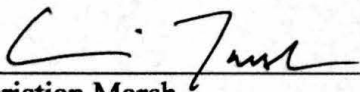
Accordingly, for reasons enumerated above, we determine the wall standards at issue are subject to the scope of the *Orders*.

RECOMMENDATION

For the reasons discussed above, and in accordance with 19 CFR 351.225(d), and 351.225(k)(1), we recommend finding that: (1) Ford Atlantic's folding tripod easels are not subject to the scope of the *Orders*; and (2) Ford Atlantic's wall standards are comprised only of aluminum extrusions and fasteners and, therefore, do not satisfy the exclusion criteria for a finished good or finished good subassembly and, accordingly, are subject to the scope of the *Orders*.

If the recommendation in this memorandum is accepted, we will serve a copy of this determination to all interested parties on the scope service list via first-class mail, as directed by 19 CFR 351.225(d).

Agree Disagree



Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

3/4/15
Date

ATTACHMENT I



Word:

Hanson Rivet & Supply Co.

Huge Inventory of All Types & Sizes Rivets, Riveting Tools & Machines!



Fastener

Webster's 1913 Dictionary

Fasten'er

n. 1. One who, or that which, makes fast or firm.

WordNet Dictionary

Noun 1. **fastener** - a person who fastens or makes fast; "he found the door fastened and wondered who the fastener was"

2. **fastener** - restraint that attaches to something or holds something in place

Synonyms: fastening, holdfast, fixing

Related Words

adhesive, affixation, anchor, annexation, attachment, band, bandage, bar, barrette, bellyband, belt, blind, binding, blinding stone, binding twine, bobby pin, bollard, bolt, bond, bonder, bondstone, box hook, brace, braces, brad, braid, buckle, button, cable, carpet tack, catch, chain, cinch, cincture, clamp, clasp, clasping, cleat, click, clinch, clip, clothespin, corking pin, cotter, dowel, fastening, fibula, fillet, fishhook, funiculus, garter, girding, girdle, girth, grab, grapnel, grappier, grappling iron, guy, hairpin, hank, heap, hawser, haywire, hitch, hitching post, holdfast, hook, hook and eye, hooking, Inks, interlocker, kevel, kingpin, knot, lace, lacing, larlat, lashing, latch, latchet, leader, ligament, ligation, line, lock, loop, moorings, nail, noose, nut, padlock, paper clip, pawl, peg, pin, pintle, ring, rivet, roller, rope, safety pin, screw, seal, sennit, setacrew, skewer, slide fastener, snap, snubbing post, spike, splice, staple, sticking, strap, string, strop, stub tenon, suspenders, tack, tag, tendon, terret, thole, tholepin, thong, thumbtack, tie, tie beam, tying, toggle, trenail, tug, twine, vise, whang, wire, zipper, zipping

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fastener



(<http://blog.dictionary.com/farther-further/>)

fastener (<http://static.sfdict.com/staticrep/dictaudio/F00/F0052300.mp3>)

[**fas-uh-ner**, **fah-suh-**]

Examples Word Origin

noun

1. any of various devices for fastening (<http://dictionary.reference.com/browse/fasten>).
2. any of various devices, as a snap or hook and eye, for holding together two objects or parts sometimes required to be separate, as two edges or flaps of a piece of clothing.
3. a worker who fastens (<http://dictionary.reference.com/browse/fasten>) things together.

Origin

1620-1630

1620-30; fasten (<http://dictionary.reference.com/browse/fasten>) + -er
 (<http://dictionary.reference.com/browse/-er>)¹

Is it farther

Related forms

unfastener, NOUN

Dictionary.com Unabridged

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Examples from the web for fastener

Impressed by the stickiness of the bur's hooks, he copied the design, engineering a two-piece *fastener*.

fastener management and control pertains to the procurement, receiving inspection, and storage of *fastener* s.

The *fastener* has special usefulness in high temperature applications where high reliability is important.



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